THE HONOUABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 16187 of 2007

Date:05-09-2007

Between:

Mettapally Gopal Rao .. **PETITIONER**

AND

The Joint Collector, Warangal and three others .. **RESPONDENTS**

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ORDER:

The petitioner seeks a writ of mandamus to declare the proceedings of the first respondent in Rc.No.E5/1731/2007, dated 29.03.2007 and consequential proceedings of the second respondent in proceedings No.A/6217/2006, dated 10.04.2007, as illegal and arbitrary.

Heard the learned counsel for the petitioner and the learned Government Pleader for respondents 1 and 2.

The case of the petitioner is that he is the owner and possessor of lands in Sy.No.664/2, 677/B and 691/2 admeasuring Ac.3.32 guntas situated at Chowtapally village, Parwathagiri mandal, Warangal District, having purchased the same from the 4th respondent who is the father of 3rd respondent under the simple sale deed, dated 04.07.1999 for a consideration of Rs.3,05,200/-. The name of the petitioner was also entered in the revenue records in the possession column and the request of the petitioner to execute a regular sale deed in his favour was not considered by the 4th respondent and they have been postponing the execution of the sale deed. It is stated that at the intervention of the village elders also, the 4th respondent failed to execute the sale deed. On the other hand, 4th respondent executed a gift settlement deed in favour of his daughter i.e. 3rd respondent on 29.06.2004. The 3rd respondent filed O.S.No.1060 of 2006 on the file of the II Additional Junior Civil Judge, Warangal against the 4th respondent for relief of permanent injunction without impleading the petitioner as party and obtained ad-interim injunction on 04.07.2006. Thereafter, the petitioner approached the

revenue authorities for the mutation of his name and the third respondent also filed an application on 05.09.2006 before the District Collector, Warangal for mutation pursuant to the gift settlement deed and basing on the said application, the Revenue Divisional Officer, Warangal vide his proceedings No. Rc.MA/2919/2006, dated 11.09.2006 directed the Mandal Revenue Officer/2nd respondent to conduct enquiry and submit a report. The second respondent conducted enquiry and submitted his report stating that the 3rd respondent pursuant to the gift settlement deed has filed certain objections with regard to the mutation. It is stated that without considering the said report, the Joint Collector, Warangal/1st respondent vide his proceedings E5/1731/2007, dated 29.03.2007 directed the Mandal Revenue Officer to fix the responsibility on the concerned who made irregular entries and issue contradictory pahani nakals for the year 2004-05 and to advise the purchaser who has filed an objection petition to approach the competent civil Court for deciding the genuineness of the document and take necessary action for implementing the registered gift deed and issuance of pattedar pass book/title deed in favour of the 3rd respondent as per Record of Rights Rules. It is stated that the said order has been passed on a representation made by the 4th respondent on 29.03.2007 on the same day itself i.e. on 29.03.2007 without giving any notice to the petitioner. It is stated that the name of the petitioner was entered in the possession column of the year 2004-05 pursuant to his factual possession over the land as he has purchased the land pursuant to the unregistered sale deed of the year 1999. It is stated that nobody disputed the possession of the petitioner over the said land.

The fact that the 4th respondent having gifted the property in

favour of his daughter i.e. 3rd respondent and the 3rd respondent having filed the suit in collusion with the 4th respondent without impleading the petitioner, the question of filing the application by the 4th respondent with the Joint Collector does not arise and the Joint Collector has readily accepted the representation of the 4th respondent, dated 29.03.2007 by passing the impugned order on 29.03.2007 itself.

Therefore, I am of the opinion that the said order passed by the Joint Collector is in utter violation of principles of natural justice and hence, it is not sustainable under law and is liable to be set aside.

Accordingly, the writ petition is allowed with costs of Rs.10,000/- (Rupees ten thousands only) payable by the first respondent to the petitioner.

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V.ESWARAIAH, J.

Date:05.09.2007
ccm